

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

PHL VARIABLE INSURANCE
COMPANY,

Plaintiff,

V.

Civil Action No. 12-315-RGA

VIRGINIA L. LANKOW LIFE
INSURANCE TRUST,

Defendant.

ORDER

The Defendant's Motion to Dismiss or Strike (D.I. 10) is **GRANTED**. Defendant objects to the Plaintiff's request as a remedy that it be allowed to keep the premiums or "alternatively" that it be allowed to recover amounts paid to brokers and damages. Defendant states that this Court has previously ruled that Delaware law prohibits an insurance company from keeping the premiums when a policy is declared void *ab initio* for lack of an insurable interest at inception. See *Principal Life Ins. Co. v. Lawrence Rucker 2007 Insurance Trust*, 774 F.Supp.2d 674, 682 (D.Del. 2011) (reviewing relevant Delaware cases). That declaration is exactly what Plaintiff seeks in this case. (D.I. 1, ¶ 1). Thus, the request that Plaintiff be allowed to retain the premiums (but not the request for amounts paid to brokers and damages) is **STRUCK**.

Richard G. Andrews
United States District Judge